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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/514,245 | 02/28/2000 | Andre Justin | 065691/0176 | 9396 |

7590

04/10/2002

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EXAMINER

SALIMI, ALI REZA

ART UNIT

PAPER NUMBER

1648

DATE MAILED: 04/10/2002

14

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/514,245

Applicant(s)

Justin et al

Examiner

A. R. SALMI

Art Unit

1648

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE One MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Mar 25, 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claims 1-22 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- *See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
- 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: _____

Art Unit: 1648

DETAILED ACTION

Election/Restriction

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-6, 20, and 22, drawn to DNA vaccine against porcine circovirus, and a method of vaccinating, classified in class 424, subclass 204.1. **(Please note if this group is selected further select one sequence to be examined on the merits, and amend the claims accordingly, see below for explanation)**
- II. Claims 7-16, 22, drawn to a polypeptide inducing protective response against porcine circovirus, and a method of immunizing, classified in class 530, subclass 300. **(Please note if this group is selected further select one sequence to be examined on the merits, and amend the claims accordingly, see below for explanation)**
- III. Claims 17-18, 22, drawn to a vaccine comprising a vector, and a method of immunizing, classified in class 435, subclass 320.1. **(Please note if this group is selected further select one sequence to be examined on the merits, and amend the claims accordingly, see below for explanation)**
- IV. Claims 19, and 22, drawn to a vaccine comprising a cell, and a method of immunizing, classified in class 435, subclass 325. **(Please note if this group is**

Art Unit: 1648

selected further select one sequence to be examined on the merits, and amend the claims accordingly, see below for explanation)

- V. Claims 21, and 22, drawn to a vaccine comprising SEQ ID NO: 15 and a carrier, and a method of immunizing, classified in class 424, subclass 815.

The inventions are distinct, each from the other because of the following reasons:

Inventions of Groups I-V are mutually exclusive and patentably distinct products and methods each are structurally and functionally different products and methods which are substantially different. The products are made by different methods, and multiple methods have different uses. The examination of all groups would require different searches in the U.S. Patent Shoes, in house and commercial databases, and scientific literature and would require the consideration of different patentability issues.

Upon election of Group I, II, III, or IV Applicants are additionally required to elect a single Sequence identified by a specific sequence identification number, as indicated above as they apply to group(s). The recited sequences have different structures one from other and the search for the sequences would be unduly burdensome. This requirement is not to be construed as a requirement for an election of species, since each of the sequence(s) recited in alternative form is not a member of a single genus of invention, but constitutes an independent and patentably distinct invention.

Art Unit: 1648

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to A. R. Salimi whose telephone number is (703) 305-7136. The examiner can normally be reached on Monday-Friday from 9:00 Am to 6:00 Pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Housel, can be reached on (703) 308-4027. The fax phone number for this Group is (703) 305-3014, or (703) 308-4242.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0196.

A. R. Salimi

4/9/2002

AS
ALI R. SALIMI
PRIMARY EXAMINER